

June 4, 2024

Ms. Evelyn Colon de Mello, M.Sc., REHS
Environmental Health Specialist
Sierra County Human Services Health Department
P.O. Box 7
Loyalton, California 96118-0007

Dear Ms. Colon de Mello:

During July 2023, through April 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Sierra County Human Services Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes acknowledgement of accomplishments and challenges, as well as examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as satisfactory with improvement needed.

To demonstrate progress towards the correction of program deficiencies and resolution of incidental findings identified in the final Summary of Findings report, the CUPA must submit an Evaluation Progress Report approximately 60 days from the date of this letter. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response, until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved by each issuing state agency. An Evaluation Progress Report template will be provided by the CalEPA Team Lead. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead, Jessica Snow, via email at Jessica.Snow@calepa.ca.gov, or uploaded to the established SharePoint website.

Thank you for your continued commitment to the protection of public health and the environment through the implementation of the Unified Program.

To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned

to Melinda Blum, at Melinda.blum@calepa.ca.gov. If you would like to have specific comments remain anonymous, please indicate so on the survey.

If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov.

Sincerely,



Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Ms. Elizabeth Morgan, MPH, REHS
Senior Environmental Health Specialist
Sierra County Human Services Health Department
P.O. Box 7
Loyalton, California 96118-0007

Ms. Theresa Norman
Health Assistant
Sierra County Human Services Health Department
P.O. Box 7
Loyalton, California 96118-0007

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board

Mr. Tom Henderson
UST Leak Prevention Unit and
Office of Tank Tester Licensing Manager
State Water Resources Control Board

Ms. Julie Pettijohn
Environmental Program Manager
CUPA Enforcement Branch
Department of Toxic Substances Control

Ryan Miya, Ph.D.
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control

cc sent via email:

Ms. Jennifer Lorenzo
Senior Environmental Scientist, Supervisor
CAL FIRE - Office of the State Fire Marshal

Ms. Jenna Hartman, REHS
Environmental Scientist
State Water Resources Control Board

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Mr. Pheleep Sidhom
Environmental Scientist
Department of Toxic Substances Control

Ms. Mary Wren-Wilson
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Ms. Elizabeth Brega
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Ms. Julie Unson
Environmental Scientist
California Environmental Protection Agency

Ms. Jessica Snow
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Sierra County Human Services Health Department

Evaluation Period: July 2023 through April 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Jessica Snow, Kaeleigh Pontif
- **DTSC:** Pheleep Sidhom
- **CalEPA:** Julie Unson, Esme Hassell-Thean
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Mary Wren-Wilson

This Final Summary of Findings includes:

- Accomplishments, Examples of Outstanding Implementation, and Challenges
- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

Questions or comments regarding this evaluation should be directed to the CalEPA Team Lead:

Jessica Snow

CalEPA Unified Program

Phone: (916) 460-2394

E-mail: Jessica.snow@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at jessica.snow@calepa.ca.gov, or uploaded to the established SharePoint website. A narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

The submittal date for the 1st Evaluation Progress Report is **September 9, 2024**.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

ACCOMPLISHMENTS, CHALLENGES, AND EXAMPLES OF OUTSTANDING IMPLEMENTATION

Various accomplishments, outstanding efforts, and challenges that impact and/or enhance the overall ability of the CUPA to implement the Unified Program. Recognition of aspects such as response to local emergency declarations and statewide recovery efforts, which illustrate the accomplishments and challenges the CUPA manages in the efforts to continue implementation of the Unified Program.

1. STAFFING CHALLENGES:

During Fiscal Years (FYs) 2020/2021, 2021/2022, and 2022/2023 the CUPA experienced significantly reduced staffing for implementation of the Unified Program due to reassignments, retirements, and departures on several occasions. The CUPA has taken the initiative to work with the California Association of Environmental Health Administrators (CAEHA) to hire a contracted inspector to conduct inspections of facilities in all program elements and has solicited assistance from the former Director of Environmental Health to help administer the Unified Program.

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

A program deficiency is considered a major deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a systemic problem in implementation of one or more program elements, a deficiency is likely to have an impact on the safety and protection of human health and the environment. Program deficiencies identify specific aspects regarding implementation of the Unified Program.

1. DEFICIENCY:

The CUPA is not consistently applying enforcement as outlined in “Section VIII. Enforcement Process and Procedures” of the Inspection and Enforcement (I&E) Plan.

Review of facility file information and inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in the California Environmental Reporting System (CERS) dating back to 2018 through October 30, 2023, finds there is no documented Return to Compliance (RTC) for repeat violations cited, or repeat violations were not cited at the following UST facilities:

- CERS ID 10400365
 - Unified Program Violation Library Violation Type Number 2030052 - Single-Walled Pressurized Pipe Monitoring/Testing (USEPATCR 9d)
 - Cited July 29, 2022, September 14, 2022, and July 18, 2023, for failure to perform a 0.1 gallons per hour test at least once every 12 months unless a 0.2 gallons per hour test is performed every 30 days.
 - No Line Tightness Testing has been submitted to the CUPA, and no RTC has been reported to CERS.
 - Unified Program Violation Library Violation Type Number 2030027 - Line Leak Detector (LLD) - Single-Walled Pressurized Pipe (USEPATCR 9d)
 - Cited July 18, 2023, for failure to meet the flow restriction requirements of CCR, Chapter 16, Sections 2643(c)(1) and 2666(c) for single-walled pressurized piping.
 - This violation was not cited previously, however, the LLDs at this facility have been out of compliance and considered a construction violation for existing UST systems since 1998, per CCR, Chapter 16, Article 4.
 - CERS Tank IDs 10400365-002 and 10400365-003 were red tagged on November 1, 2022.
 - CERS Tank ID 10400365-001 was red tagged on July 23, 2023.
- CERS ID 10400623
 - Unified Program Violation Library Violation Type Number 2030002 - Leak Detection Equipment Maintenance (USEPATCR 9d)
 - Cited October 23, 2020, and September 23, 2021, for failure to have a properly qualified service technician test leak detection equipment as required every 12 months.
 - No Annual Monitoring Certification has been performed and no RTC has been reported to CERS.
 - This is a repeat violation that is not cited as part of the compliance inspections performed in 2022 and 2023, nor is the violation reported to CERS.

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- Unified Program Violation Library Violation Type Number 2060020 - Spill Container (USEPATCR 9a)
 - Cited November 13, 2018, September 27, 2019, October 23, 2020, and September 23, 2021.
 - No Spill Containment Testing has been performed and no RTC has been reported to CERS.
 - This is a repeat violation that is not cited as part of the compliance inspections performed in 2022 and 2023, nor is the violation reported to CERS.
- Unified Program Violation Library Violation Type Number 2030036 - Overfill Prevention (USEPATCR 9b)
 - Cited November 13, 2018, September 27, 2019, and September 23, 2021, for failure to comply with overfill prevention equipment requirements.
 - No Overfill Prevention Equipment Certification has been completed, and no RTC has been reported to CERS.
 - On and after October 1, 2018, all overfill prevention equipment used to comply with CCR, Chapter 16, Section 2635(c)(1) must be inspected triennially and after repairs, and results submitted to the CUPA. This is a repeat violation that is not cited as part of the compliance inspections performed in 2020, 2022, or 2023, nor is the violation reported to CERS.
- Unified Program Violation Library Violation Type Number 2030027 – Line Leak Detector (LLD) – Single-Walled Pressurized Pipe (USEPATCR 9d)
 - Cited November 13, 2018, and September 23, 2021, for failure to meet the flow restriction requirements of CCR, Chapter 16, Sections 2643(c)(1) and 2666(c) for single-walled pressurized piping.
- Unified Program Violation Library Violation Type Number 2030025 – LLD Double Walled Pressurized Piping
 - Incorrectly cited September 27, 2019. The LLDs at this facility have been out of compliance and considered a construction violation for existing UST systems since 1998, per CCR, Chapter 16, Article 4.
 - This violation was not cited in the compliance inspections performed in 2022 or 2023, nor is the violation reported to CERS.
- Unified Program Violation Library Violation Type Number 2030062 - Tampering with Leak Detection Equipment (USEPATCR 9d)
 - Cited September 23, 2021, and September 21, 2023, for raised sensors unable to detect liquid in the sump.
- Unified Program Violation Library Violation Type Number 2060002 – Automatic Tank Gauge (ATG) / Statistical Inventory Reconciliation / Continuous In-Tank Leak Detection (CITLD) (USEPATCR 9d)
 - Cited November 13, 2018, and September 23, 2021.
 - This is a repeat violation that is not cited as part of the compliance inspections performed in 2019, 2020, 2022, or 2023, nor is the violation reported to CERS.
- Notice of Significant Violations as issued to the facility owner/operator on December 19, 2018.
- CERS Tank IDs 10400623-001, 10400623-002, 10400623-003, and 10400623-004 were red tagged on January 8, 2019.

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- Many violations cited in compliance inspections performed in 2022 and 2023 were incorrectly carried over and are not identified as repeat violations reported to CERS.
- CERS ID 10400650
 - Unified Program Violation Library Violation Type Number 2030002 - Leak Detection Equipment Maintenance (USEPATCR 9d)
 - Cited November 21, 2019, October 23, 2020, April 1, 2022, and October 20, 2022, for failure have a properly qualified service technician test leak detection equipment as required every 12 months.
 - No Annual Monitoring Certification has been performed and no RTC has been reported to CERS.
 - Unified Program Violation Library Violation Type Number 2030016 - Double-Walled Tank Monitoring - After January 1, 1984, and Before July 1, 2004 (USEPATCR 9d)
 - Cited November 21, 2019, April 1, 2022, and October 20, 2022, for failure to continuously monitor the interstitial space of a double-walled tank with an audible and visual alarm system.
 - CERS Tank IDs 10400650-001 and 104000650-002 were red tagged on February 5, 2021.

Note: The examples provided above may not represent all instances of this Deficiency.

Note: The following may be referenced:

- Local Guidance (LG) letter 159 “Annual Underground Storage Tank Compliance Inspection” dated November 29, 2016.
- LG 150-3 “Underground Storage Tank Overfill Prevention Equipment”.
- LG letter 164-4 “Reporting Technical Compliance Rate,” Dated June 30, 2020.
- State Water Board correspondence, “When to Review Underground Storage Tank Records,” dated November 29, 2016
 - https://www.waterboards.ca.gov/ust/adm_notices/rvw_ust_records.pdf
- State Water Board correspondence dated August 14, 2023, “Repairing Single-Walled Product Piping”
 - https://www.waterboards.ca.gov/ust/tech_notices/sw-piping-upgrade-repair-letter.pdf

CITATION:

California Code of Regulations (CCR), Chapter 16, Section 2712(g)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an analysis and explanation as to why enforcement is not consistently being applied as outlined in Section VIII. “Enforcement Process and Procedures” of the I&E Plan. The analysis and explanation will include, at minimum:

- identification of why enforcement is not consistently applied, as outlined in Section VIII;
- discussion of what procedures and tools may be needed to consistently apply enforcement;
- a workplan to address each identified aspect as to why enforcement is not being met as outlined in Section VIII, including:

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- discussion of procedures and tools necessary to ensure enforcement is consistently applied as outlined in Section VIII of the I&E Plan, including documentation of all enforcement correspondence between the CUPA and each UST facility;
- identification of the types and frequency of training needed to consistently apply enforcement as outlined in Section VIII of the I&E Plan; and
- a timeline identifying how the CUPA will ensure enforcement is consistently applied as outlined in Section VIII of the I&E Plan, including applied enforcement for repeat violations without RTC.

By the 2nd Progress Report, if revisions to the workplan are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised workplan. If no revisions are necessary, the CUPA will implement the workplan.

By the 3rd Progress Report, if revisions to the workplan were necessary, the CUPA will implement the revised workplan.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records, including at minimum, annual UST compliance inspection reports, associated testing and leak detection documents, and all enforcement correspondence between the CUPA and the UST facility for the following UST facilities:

- CERS ID 10400365
- CERS ID 10400623
- CERS ID 10400650

2. DEFICIENCY:

The CUPA is not conducting complete UST compliance inspections.

The CUPA is not correctly reporting UST violations cited on UST compliance inspection reports, including Technical Compliance Rate (TCR) criteria, in CERS. TCR is a performance measure developed by the United States Environmental Protection Agency (USEPA) that is required to be reported by all states semiannually.

The CUPA is accepting testing documentation that does not reflect UST construction identified in CERS.

Review of annual UST compliance inspection reports, associated testing documentation, and CERS CME information finds non-compliance was not observed, and a violation was not issued in CERS for the following:

- CERS ID 10400161
 - Annual Monitoring System Certification and Spill Containment Testing were completed late on November 5, 2021.
 - The UST compliance inspection report dated November 5, 2021, cites no violation for late completion of certification and testing (?).
 - Accurate TCR reporting for Unified Program Violation Library Violation Type Number 2030002 - Leak Detection Equipment Maintenance (USEPATCR 9d), was not provided.

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- CERS ID 10400623
 - Sierra County UST Program Single Wall Inspection Report dated October 23, 2020, cites 7 violations.
 - CERS CME information reflects 10 violations cited.
 - State Water Resources Control Board Office of Enforcement Inspection Report dated September 23, 2021, cites 18 violations.
 - CERS CME information reflects 33 violations cited.
 - State Water Resources Control Board Office of Enforcement Inspection Report dated September 15, 2022, cites 28 violations.
 - CERS CME information reflects 2 violations cited.

Review of annual UST compliance inspection reports, associated testing documentation, and CERS information finds the following UST construction and inspection discrepancies:

- CERS ID 10400365
 - Annual Monitoring System Certifications dated July 13, 2021, and July 29, 2022, state “Line leak detectors are not installed,” while CERS cites mechanical line leak detectors are present.

Note: The examples provided above may not represent all instances of this Deficiency. The examples provided above are TCR violations not being reported to CERS, and therefore are being reported incorrectly to the State Water Board as part of Report 6. These unreported violations adversely affect the TCR reported to USEPA by the State Water Board. If the above listed violations had been documented in CERS, the TCR reported as part of Report 6 for that time period would have been lower.

CITATION:

Health and Safety Code (HSC), Chapter 6.7, Sections 25288(b) and 25299
CCR, Chapter 16, Sections 2713(c)(4) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan, or other applicable procedure, to ensure, at minimum, the establishment of a process for consistently conducting complete annual UST compliance inspections and correctly reporting UST inspections and all violations observed in UST compliance inspection reports, including TCR criteria, to CERS. The revised I&E Plan, or other applicable procedure will, at minimum include a process for:

- directing UST inspection staff to apply enforcement and utilize available tools as outlined in the I&E Plan;
- conducting complete annual UST compliance inspections at all UST facilities, including single-walled UST facilities;
- review and following up with UST testing and leak detection documents submitted by UST owners or operators as part of the annual UST compliance inspection;
- documenting observed noncompliance in UST compliance inspection reports;
- reporting observed noncompliance identified in UST compliance inspection reports to CERS;

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually inspect all UST required components;
- ensuring violations observed during UST inspections are correctly and consistently cited on the inspection report;
- review of the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program violation library in CERS;
- Accurate USEPA TCR reporting; and
- Quality assurance to ensure violation data used as part of Report 6 is accurately reported to CERS.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. The CUPA will contact the State Water Board for any assistance needed.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan, or other applicable procedure. The State Water Board will assist the CUPA with training upon request. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The State Water Board will assist the CUPA with training upon request. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records for CERS ID 10400161 and CERS ID 10400689 including, at minimum, annual UST compliance inspection reports and associated testing, and leak detection documents.

The State Water Board will review TCR information in Report 6 and CERS for two consecutive Report 6 reporting periods to determine if the CUPA is consistently conducting complete UST compliance inspections.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

3. DEFICIENCY:

The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for APSA tank facilities cited with violations.

Review of CERS CME information between July 1, 2018, and June 30, 2023, finds there is no documented RTC for the following APSA Program violations:

- Fiscal Year (FY) 2022/2023
 - 14 of 16 (88%)
- FY 2021/2022
 - 2 of 2 (100%)

CITATION:

HSC Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from CERS, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) cited between July 1, 2021, and June 30, 2023:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

By the 2nd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

4. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for HWG Program facilities cited with violations.

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**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following HWG Program violations:

- 4 of 8 (50%)
 - CERS ID 10400365: Inspection dated September 14, 2022, cites three violations. There is no documented RTC for two of three violations.
 - CERS ID 10400623: Inspection dated September 15, 2022, cites three violations. There is no documented RTC for two of three violations.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)

HSC, Chapter 6.7, Section 25288(d)

HSC, Chapter 6.11, Section 25404.1.2(c)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from CERS that includes at minimum the following information for each HWG Program facility with an open violation (no RTC) cited between July 1, 2020, and June 30, 2023:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

5. DEFICIENCY:

The CUPA is not annually completing a Self-Audit Report.

The CUPA did not complete an annual Self Audit Report for FYs 2020/2021, 2021/2022, nor 2022/2023.

CITATION:

CCR, Title 27, Section 15280(c)

[CalEPA]

UNIFIED PROGRAM PERFORMANCE EVALUATION
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CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2023/2024 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th.

6. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not consistently ensuring Aboveground Petroleum Storage Act (APSA) tank facilities annually submit a Hazardous Materials Business Plan (HMBP) to CERS, when an HMBP is provided in lieu of a tank facility statement.

Review of HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement finds:

- 3 of 12 (25%) APSA tank facilities have not annually submitted a chemical inventory and site map.
- 3 of 12 (25%) APSA tank facilities have not annually submitted emergency response and employee training plans.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)
[OSFM]

CORRECTIVE ACTION: COMPLETED

During the evaluation, a sufficient number of APSA tank facilities that had not annually submitted a chemical inventory and site map, or emergency response and employee training plans did submit an HMBP to CERS, in lieu of a tank facility statement.

As of April 10, 2024, review of HMBPs submitted to CERS between March 10, 2023, and April 10, 2024, by APSA tank facilities, in lieu of a tank facility statement finds:

- 1 of 14 (7%) APSA tank facilities has not annually submitted a chemical inventory and site map.
- 1 of 14 (7%) APSA tank facilities have not annually submitted emergency response and employee training plans.

This Deficiency is considered corrected.

7. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not ensuring all businesses subject to the Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS.

Review of HMBPs submitted to CERS between September 20, 2022, and October 20, 2023, by businesses subject to Business Plan reporting requirements finds:

- 13 of 46 (28%) Business Plan facilities have not annually submitted a chemical inventory (including site map) or a no-change certification.

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- 9 of 46 (20%) Business Plan facilities have not annually submitted emergency response and employee training plans or a no-change certification.

CITATION:

HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2
[CalEPA]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA ensured additional businesses subject to Business Plan reporting requirements annually submitted an HMBP or a no-change certification to CERS.

As of April 25, 2024, review of HMBPs submitted to CERS between November 29, 2022, and January 29, 2024, by businesses subject to Business Plan reporting requirements finds:

- 3 of 43 (7%) Business Plan facilities have not annually submitted a chemical inventory (including site map) or a no-change certification.
- 3 of 43 (7%) Business Plan facilities have not annually submitted emergency response and employee training plans or a no-change certification.

This Deficiency is considered corrected.

8. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA did not conduct an annual audit of its activities to implement the California Accidental Release Prevention (CalARP) Program or compile a CalARP performance audit report for FY 2020/2021.

CITATION:

CCR, Title 19, Section 5150.5
[CalEPA]

CORRECTIVE ACTION: COMPLETED

In 2021, CalARP regulated substances were removed from the only CalARP site within the jurisdiction of the CUPA. There are currently no CalARP regulated facilities within the jurisdiction of the CUPA, thus there is no need to conduct an annual audit of activities to implement the CalARP Program or compile a CalARP performance audit report. In the future, should a CalARP site become established within the jurisdiction of the CUPA, the CUPA will need to conduct an annual audit of activities to implement the CalARP Program and compile a CalARP performance audit report. This Deficiency is considered corrected.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

An incidental finding is considered a minor deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a minor issue that may be problematic in implementation of one or more program elements, an incidental finding is not likely to have an impact on the safety and protection of human health and the environment.

1. INCIDENTAL FINDING:

The CUPA is not consistently ensuring technicians performing UST testing and/or equipment inspections of UST systems are International Code Council (ICC) UST Compliance Inspector Certified and/or trained and certified by the manufacturer of the equipment.

Review of UST facility files finds the technician certification information is incomplete for the following facilities:

- CERS ID 10400161
 - Annual Monitoring System Certification and Spill Containment Testing conducted October 19, 2020, by a technician with invalid ICC Certification information and no manufacturer training certification information.
 - Annual Monitoring System Certification and Spill Containment Testing conducted November 5, 2021, by a technician with invalid ICC Certification information and no manufacturer training certification information.
- CERS ID 10400689
 - Annual Monitoring System Certification conducted October 13, 2020, and Spill Containment Testing conducted October 15, 2020, by a technician with invalid ICC Certification information and no manufacturer training certification information.

CITATION:

CCR, Chapter 16, Sections 2715(f)(3) and 2638(b)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan, or other applicable procedure, that ensures the establishment of a process for UST inspection staff to confirm technicians conducting Annual Monitoring Certifications and Spill Container Testing have valid certification by the manufacturer of the equipment. The process will include, at minimum, the methods the CUPA will use to confirm the manufacturing certifications of the technician meet the requirements of the inspection or testing being conducted.

By the 2nd Progress Report, if amendments to the I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised I&E Plan, or other applicable procedure. Once training is complete, the CUPA will implement the revised I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were necessary, the CUPA will train UST Inspection staff on the amended I&E Plan or other applicable procedure. Once training is complete, the CUPA will implement the amended

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I&E Plan or other applicable procedure. The CUPA will provide CalEPA with a statement that training has been conducted.

2. INCIDENTAL FINDING:

The CUPA is not inspecting each APSA tank facility at least once every three years, in accordance with the I&E Plan.

Review of CERS CME information between November 6, 2020, and November 6, 2023, and information provided by the CUPA finds:

- 1 of 3 (33%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 2 of 8 (25%) other APSA tank facilities have not been inspected within the last three years.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a) and (b)
[OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility is inspected at least once every three years. The action plan will include at minimum:

- A sortable spreadsheet exported from CERS, identifying each APSA tank facility that has not been inspected within the last three years. For each APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Category of APSA tank facility, such as 10,000 gallons or more, 1,320-9,999 gallons, Tank In an Underground Area (TIUGA) with less than 1,320 gallons, and
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum, or proximity to navigable water).
- Future steps to ensure each APSA tank facility will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report at least once every three years.

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3. INCIDENTAL FINDING:

The CUPA is not inspecting each facility subject to HMBP requirements at least once every three years.

Review of CERS CME information on October 20, 2023, between July 1, 2020, and June 30, 2023, finds:

- 7 of 46 (15%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

HSC, Chapter 6.95, Section 25511
[CalEPA]

RESOLUTION:

During the evaluation, the number of facilities subject to HMBP requirements inspected by the CUPA increased.

Review of CERS CME information on May 2, 2024, between April 1, 2021, and March 31, 2024, finds:

- 5 of 43 (12%) facilities subject to HMBP requirements were not inspected within the last three years.

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- A sortable spreadsheet exported from CERS, identifying each facility subject to HMBP requirements that has not been inspected within the last three years. For each facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection, and
 - A schedule to inspect each facility subject to HMBP requirements that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other HMBP facility inspection based on risk. For each facility, the schedule to inspect should reflect an estimated date or date range.
- Future steps to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative as to how the CUPA is continuing to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.

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By the 5th Progress Report, the CUPA will have inspected each facility subject to HMBP requirements at least once in the last three years.

4. INCIDENTAL FINDING:

The 2022 area plan is missing a required element and has required elements that are incomplete.

The following required element is missing:

- Procedures to identify all languages known to be spoken in the administering agency's county or city, as the case may be, and ensure that any individual is able to access services in their native language as required by Section 11135 of the Government Code. The area plan will outline what these services are and how they will be provided in the languages identified.
 - [CCR, Title 19, Section 5020.6\(d\)](#).

The following required elements are incomplete:

- Provisions for access to state approved and permitted hazardous waste disposal facilities and emergency response contractors.
 - Provisions to access state-approved and permitted hazardous waste facilities must be specified.
 - [CCR, Title 19, Section 5020.3\(e\)](#); [HSC, Section, 25503\(c\)\(7\)](#)
- Provisions for pre-emergency planning and coordination among emergency responders within the jurisdiction of an administering agency.
 - Pre-emergency planning shall include coordination of emergency response and emergency assistance between contiguous jurisdictions.
 - [CCR, Title 19, Section 5020.3\(b\)](#).

CITATION:

HSC, Chapter 6.95, Section 25503(c)
CCR, Title 19, Sections 5020.1-5020.8.
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

5. INCIDENTAL FINDING:

The CUPA is not submitting Quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter (FQ) when state surcharge revenues are remitted.

- FY 2020/2021
 - 2nd FQ:
 - Due January 30, 2020, submitted March 17, 2020.
 - 3rd FQ:
 - Due April 30, 2020, submitted May 12, 2020

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- FY 2021/2022
 - 2nd FQ:
 - Due January 30, 2022, submitted February 22, 2022
- FY 2022/2023
 - 4th FQ:
 - Due July 30, 2023, submitted August 31, 2023

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will have provided the 4th Quarterly Surcharge Transmittal Report for FY 2023/2024 by July 30, 2024, using the current Quarterly Surcharge Transmittal Report template, along with any state surcharge remittance, to the California Air Resources Board (CARB) via mail at:

Air Resources Board
Attn: Accounting
P.O. Box 1436
Sacramento, CA 95812

The CUPA will also ensure an electronic copy of the 4th Quarterly Surcharge Transmittal Report for FY 2023/2024 is provided to CalEPA via email at cupa@calepa.ca.gov, by July 30, 2023, using the current template.

Thereafter, no later than 30 days after the end of each FQ, the CUPA will ensure each Quarterly Surcharge Transmittal Report, and any state surcharge remittance are provided to CARB via mail, and each Quarterly Surcharge Transmittal Report is provided to CalEPA via email.

Note: The revised Quarterly Surcharge Transmittal Report template is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2023/10/SURCHARGE-TRANSMITTAL-REPORT_20231019-ADA-1.pdf. Each line item on the Quarterly Surcharge Transmittal Report template should be completed, including the check number.

6. INCIDENTAL FINDING:

The CUPA has not established all Unified Program administrative procedures.

The established Unified Program administrative procedures have components that are missing.

The following administrative procedure has not been established:

- Providing Hazardous Material Release Response Plan (HMRRP) Information
 - Procedures for providing HMRRP information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c).

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The following administrative procedures have components that are missing:

- Information collection, Retention, and Management
 - The procedural document does not identify training records required by HSC, Section 15260, and any other required training specific to each program element are maintained for a minimum of five years.
- Public participation
 - The current procedure includes a discussion on public hearings and public notices but does not include receipt and consideration of comments from regulated businesses and the public.

CITATION:

CCR, Title 27, Sections 15180(e), 15185
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the developed and revised Unified Program administrative procedures that adequately incorporate all required components.

By the 2nd Progress Report, if revisions to the developed Unified Program administrative procedures or amendments to the revised Unified Program administrative procedures, are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised and/or amended Unified Program administrative procedures. If no revisions and/or amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures. The CUPA will provide CalEPA with a statement that training has been conducted.

By the 3rd Progress Report, if revisions to the developed Unified Program administrative procedures or amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures. The CUPA will provide CalEPA with a statement that training has been conducted.

7. INCIDENTAL FINDING:

Required components of the I&E Plan are missing.

Review of the I&E Plan finds the following component is missing:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory, pursuant to HSC, Chapter 6.5, Section 25198. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.

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CITATION:

CCR, Title 27, Section 15200(a)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate all required components, including the date of revision. The CUPA will provide the revised I&E Plan to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

8. INCIDENTAL FINDING:

The CUPA is not consistently including all observations, citations, factual basis, and corrective action documentation for each violation cited in HWG inspection reports.

Review of HWG inspection reports, CERS CME information, and Notices of Violation finds inadequate or improper documentation of cited violations for the following facilities:

- CERS ID 10400161: inspection report dated November 8, 2021.
 - Class II violation for exceeding the HW accumulation time limit includes no observation, factual basis, nor corrective action.
 - Minor violation for improper labeling of HW containers includes the following observation, "SOME HAZWASTE CONTAINER LABELS WERE INCOMPLETE."
 - The observation does not describe which containers had incomplete labels, the number of containers, or what information was missing from the labels.
- CERS ID 10400365: inspection report dated September 14, 2022.
 - Class II violation for exceeding the HW accumulation time limit includes the following observation, "OBSERVATION: FAILURE TO MEET ACCUMULATION TIME REQUIREMENTS."
 - The observation does not include a description of the initial accumulation date, how long the container(s) were on-site, the number of containers in violation, nor a description of the containers (ex: size, location, contents).
 - Minor violation for improper labeling of HW containers includes the following observation, "OBSERVATION: FADED LABEL. FAILURE TO PROPERLY LABEL HAZARDOUS WASTE DRUM. MISSING FACILITY NAME AND ADDRESS, WASTE ACCUMULATION START DATE, PHYSICAL STATE, COMPOSITION AND HAZARDOUS WASTE CLASSIFICATION."

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- The observation does not describe which container had a faded and/or incomplete label.
- Class II violation for failure to minimize the possibility of a fire/explosion/release includes the following observation, “HAZARDOUS WASTE DRUM WILL BE STORED INSIDE BUILDING. (SEE PHOTOS).”
 - The observation does not include any factual basis for the violation and does not describe how the facility failed to meet the requirements of the regulations.
- CERS ID 10400623: inspection report dated September 15, 2022.
 - Violation for not having an active EPA ID number includes the following observation, “EPA ID CAL000421899 IS INACTIVE AS OF 09/15/22.”
 - The violation includes no corrective action.
 - The violation was not assigned a classification
 - Violation for failing to maintain three years of manifests on-site was not assigned a classification.
 - Violation for improper labeling of HW containers includes the following observation, “OBSERVATION: FAILURE TO DATE AND MARK HAZARDOUS WASTE CONTAINER ‘EMPTY.’”
 - The observation does not describe which container was improperly labeled.
 - The violation includes no corrective action.
 - The violation was not assigned a classification.

Note: It is not necessary to revise the HWG inspection reports for the facilities identified as examples above. The examples provided above may not represent all instances of this incidental finding.

Note: The 2019 CUPA Performance Evaluation identified an incidental finding for not properly citing HWG Program violations and an incidental finding for not properly identifying HWG program violations, both of which were resolved during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.5, Section 25185(c)(2)(A)
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will ensure HWG Program inspectors:

- receive inspection report writing training to include observations, factual bases, citations, and corrective actions for each violation cited in HWG and TP inspection reports by reviewing the Elements of a Violation Training; and
- review the following DTSC HWG fact sheets and information:
 - DTSC Hazardous Waste Generator Requirements Fact Sheet (<https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>).
 - Accumulating Hazardous Wastes at Generator Sites (<https://dtsc.ca.gov/accumulating-hazardous-wastes-at-generator-sites/>).
 - The language of HSC, Section 25185(c)(2)(A) (https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.5.&article=8).

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The CUPA will provide CalEPA with training documentation, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA inspection staff in attendance.

By the 2nd Progress Report, and with each subsequent Progress Report until considered resolved, the CUPA will provide CalEPA with an inspection report citing at least one HWG violation, for three HWG facilities, as requested by DTSC, that have been inspected after training has been completed. Each inspection report will contain observations, factual bases, citations, and corrective actions to correctly identify and classify each observed HWG violation.

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OBSERVATIONS AND RECOMMENDATIONS

Observations and recommendations identify areas of Unified Program implementation that could be improved and provide suggestions for improvement. Though the CUPA is not required by regulation or statute to apply the recommendations provided, the CUPA would benefit in applying the recommendations provided to improve the overall implementation of the Unified Program.

1. OBSERVATION:

Review of CERS finds the following UST facilities have USTs with single-walled components, which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10400365
- CERS ID 10400623
- CERS ID 10918600

Note: The example provided above may not represent all instances of observation.

RECOMMENDATION:

Provide reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs.

2. OBSERVATION:

Some APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement using an outdated consolidated emergency response and training plans template, which contains obsolete information.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS, CERS Central, on the Businesses webpage at <https://cers.calepa.ca.gov/businesses/> and on the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/>.

3. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 12 APSA tank facilities. Information provided by the CUPA identifies 11 APSA tank facilities.

- 11 APSA tank facilities are identified in both CERS and by the CUPA.
- 1 facility is marked as “APSA Applicable” in CERS but is not identified as an APSA tank facility by the CUPA. The CUPA should determine if this facility is “APSA Applicable.”

RECOMMENDATION:

Complete the reconciliation of the APSA Program information to ensure all APSA tank facilities are identified as “APSA Applicable” in CERS and by the CUPA. If a facility is not APSA regulated, the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable.”

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4. OBSERVATION:

The area plan contains the following information that is inaccurate or outdated and may benefit from improvement:

- The title reflects “Trinity HMAP.”
- Page 3.10, Section H.2.: The outdated Uniform Fire Code is referenced; the current fire code adopted by the state is the California Fire Code. The 2022 edition is the current edition, which became effective January 1, 2023.
- Page T 6, Glossary: The glossary identifies OSFM as having responsibility for interstate and intrastate hazardous liquid pipelines in California. OSFM oversees intrastate hazardous liquid pipelines. Interstate hazardous liquid pipelines are under the authority of the US Department of Transportation – Pipeline and Hazardous Materials Safety Administration.

RECOMMENDATION:

With the next revision, update the area plan as indicated above.

5. OBSERVATION:

The CUPA has webpages that contain various resources for the public and regulated community. However, the APSA webpage at <https://sierracounty.ca.gov/651/Aboveground-Petroleum-Storage-Act-APSA> contains the following sections with information that is incorrect or outdated and may benefit from improvement:

- Section: 'Unless exempted, a facility in the APSA Program must':
 - The 'submit facility information in CERS' should be clarified as 'submit an APSA tank facility statement (or a complete HMBP) to CERS'.
- Section: 'Resources':
 - Replace the Tank Facility Statement document with the Americans with Disabilities Act compliant version (<https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/reset-fillable-accessible-tank-facility-statement-form-25jan2021.pdf?rev=962f0607653447558e33379dc5e7112e&hash=7863421D5C584C0EBFEC38678EF76994>)
 - Remove the APSA flyer which contains outdated information and an invalid OSFM link
 - Replace the 'Aboveground Petroleum Storage Tank Facility Statement Reporting Requirements' document, which contains invalid links, with a link to the OSFM website (<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/aboveground-petroleum-storage-tank-facility-statement-reporting-requirements>)

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- Replace the 'Is my facility Regulated under APSA?' document, which contains outdated information and invalid links, with a link to the OSFM website (<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/is-my-facility-regulated-under-the-aboveground-petroleum-storage-act>)
- Replace the 'Preparing an APSA Submittal in CERS' document, which contains invalid links, with a link to the OSFM website (<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/preparing-an-aboveground-petroleum-storage-act>)

RECOMMENDATION:

Update the webpage as indicated above.

6. OBSERVATION:

The I&E Plan contains information that may benefit from improvement.

- Page 3: The list of Unified Program elements is missing the fire code Hazardous Materials Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS), which is consolidated with the HMBP requirements to streamline the regulatory requirements for regulated facilities.
- Page 14: The notice to comply (NTC) should include all applicable citations, such as HSC, Chapter 6.11, Section 25404.1.2(b).
- Page 18: HSC, Section 25270.12 is incorrectly referenced for the assessment of administrative penalties in administrative enforcement orders; the correct citation is HSC, Section 25270.12.1.

RECOMMENDATION:

Update the I&E Plan as indicated above.

7. OBSERVATION:

Review of 7 HMBPs recently submitted to CERS by APSA tank facilities in lieu of tank facility statements finds the following 4 (57%) were marked as 'Under Review' by the CUPA:

- CERS ID 10418302: Submitted by the facility and marked 'Under Review' by the CUPA February 2, 2023.
- CERS ID 10418401: Submitted by the facility and marked 'Under Review' by the CUPA February 9, 2023.
- CERS ID 10740550: Submitted by the facility December 2, 2022, marked 'Under Review' by the CUPA January 7, 2023.
- CERS ID 10148273: Submitted by the facility January 3, 2023, marked 'Under Review' by the CUPA November 6, 2023; Previous submittal October 3, 2022, marked 'Under Review' by the CUPA November 4, 2022.

RECOMMENDATION:

Ensure the CUPA reviews submittals in a timely manner.

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8. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2020, and June 30, 2023:

- CERS reflects 17 regulated HWG facilities, no Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQG), and no Tiered Permitted facilities within the jurisdiction of the CUPA.
- The three-year inspection frequency for all HWG Program facilities is currently being met.
- The CUPA conducted 16 "routine" HWG inspections, of which 12 (75%) had no violations cited and 4 (25%) had at least one violation cited.
 - In the 4 "routine" inspections conducted having at least one violation, 8 total violations were cited, consisting of:
 - 1 Class I violation,
 - 4 Class II violations, and
 - 3 minor violations.
 - The CUPA has ensured return to compliance for 2 of 8 (25%) violations cited.
- The CUPA did not conduct any "other" HWG inspections.
- The CUPA completed no separate formal enforcement actions for facilities with hazardous waste related violations.
- Inspection reports do not always contain detailed comments that note the factual basis of cited violations, nor document whether consent to inspect was requested prior to the inspection.

DTSC was unable to conduct oversight inspections due to scheduling challenges.

RECOMMENDATION:

Revise the HWG inspection checklist to ensure consent is obtained and documented prior to conducting an HWG inspection. Ensure inspection reports contain a detailed description of all observations and factual bases for each cited violation and properly cited violations.

Continue with the three-year HWG inspection frequency as identified in the I&E Plan. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan. Frequent inspections lead to better compliance rates and help ensure that hazardous waste is being managed appropriately.

9. OBSERVATION:

The CUPA has exempted businesses operating a farm from all requirements to establish and maintain a business plan.

Review of information provided by the CUPA finds businesses operating farms are being exempted under a general program exemption in HSC, Section 25507(d), previously HSC, Section 25507(g).

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RECOMMENDATION:

Ensure all provisions outlined in HSC, Section 25507(d) have been met and that all exempted businesses operating a farm have been properly exempted. Exempt businesses operating a farm under the agricultural exemption in HSC, Section 25507.1, which exempts businesses from electronically filing emergency response plans and procedures and employee training plans to CERS if the requirements in HSC, Section 25507.1(a) are met.
